

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE POLICY FILING)
MADE BY DELMARVA POWER & LIGHT)
COMPANY ENTITLED PROPOSED FORWARD) PSC DOCKET NO. 13-384
LOOKING RATE PLAN)
(FILED OCTOBER 2, 2013))

ORDER NO. 8536

AND NOW, this 20th day of February, 2014, the Delaware Public Service Commission ("Commission") determines and orders the following:

WHEREAS, on October 2, 2013, Delmarva Power & Light Company ("Delmarva") filed with the Commission a policy filing entitled "Proposed Forward Looking Rate Plan of Delmarva Power & Light Company" (the "FLRP" or the "Plan") requesting that the Commission examine its Plan proposing to set electric distribution rates for next four years; and

WHEREAS, on October 22, 2013, this Commission opened a docket via Order No. 8467 to consider the FLRP and also designated Mark Lawrence as the Hearing Examiner to schedule and conduct, upon due notice, such evidentiary hearings, as may be necessary, to have a full and complete record concerning all issues raised by Delmarva's policy filing and to file with the Commission thereafter his proposed findings and recommendations.¹ See Order No. 8467, ¶¶ 1 to 3; and

¹ Order No. 8467 stated that "the Commission shall delegate to a Hearing Examiner the authority to grant or deny petitions seeking leave to intervene and for admission of counsel pro hac vice"; however, no specific Hearing Examiner was designated in the Order. See Order No. 8467, ¶5.

WHEREAS, on November 19, 2013, Representative Kowalko filed a Petition for Leave to Intervene (the "Kowalko Petition") in this case; and

WHEREAS, on November 22, 2013, Representative Osienski filed a Petition for Leave to Intervene (the "Osienski Petition") in this matter; and

WHEREAS, on January 23, 2014, the Division of the Public Advocate ("DPA") file an Objection to the Intervention Petitions of State Representatives John Kowalko and Edward Osienski; and

WHEREAS, on January 29, 2014, Rep. Kowalko sent via email a response to the Public Advocate's Objection to his Petition to Intervene;² and

WHEREAS, on January 27, 2014, Hearing Examiner Lawrence notified the Commission Secretary to include on the Commission's next agenda for its consideration the matter of the Petitions to Intervene and the DPA's Objection to such Petitions; and

WHEREAS, on February 6, 2014, this Commission held an evidentiary hearing on whether to grant Rep. Kowalko's Petition to Intervene;³ and

WHEREAS, on February 6, 2014, after considering all of the evidence, including Kowalko's Petition, the DPA's Objection, Rep. Kowalko's Response to the DPA's Objection, the oral arguments of the DPA and Rep. Kowalko, and deliberating in public session, the Commission makes the following determinations:

² Unless otherwise specified by the Hearing Examiner, the Commission's Rules of Practice and Procedure require that service of all filings must be made by U.S. mail, first-class; by commercial courier service; or by personal delivery. See 26 *Del. Admin. C.* §§1001-1.6.7.1 to 1.6.7.3.

³ As decided below, the Commission voted to table the matter of Osienski's Petition until the next Commission meeting (i.e., February 20, 2014).

NOW, THEREFORE, IT IS ORDERED BY THE AFFIRMATIVE VOTE OF

NOT FEWER THAN THREE COMMISSIONERS:

1. Although undoubtedly the DPA fulfills the spirit and letter of the law in representing consumers and is tasked with protecting consumers in any matter or proceeding before the Commission as provided for in 29 *Del. C.* §8716(e), including in this particular docket, the Commission grants John Kowalko leave to intervene in this matter on an individual basis and not on behalf of any other person or persons. The Commission finds that the provisions of 26 *Del. Admin. C.* 1001-2.9.1 have been met here, namely that Kowalko's participation in this proceeding would be in the public interest given that he has educated himself on the issues related to the Plan and he has asserted that he possesses experience from participating in previous Commission dockets involving rate setting and cost recovery.

2. The Commission further decides to postpone its decision on the Osienski Petition. The Commission shall deliberate on the merits of the Osienski Petition at its next regularly-scheduled meeting.

3. The Commission orders that Hearing Examiner Mark Lawrence track the impact, if any, that Kowalko's intervention has on the process of this docket.

4. The Commission further determines that it will discuss and deliberate on whether to delegate to Hearing Examiner Mark Lawrence the authority to grant or deny petitions for leave to intervene and motions for admission of counsel *pro hac vice*.⁴

⁴ Opening Order No. 8467 (October 22, 2013) did not delegate to Hearing Examiner Lawrence this specific task. See Order No. 8467, ¶5.

